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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,043	06/15/2000	Mark Dehdashtian	VAS-5512	9147
30452	7590	03/25/2004		
EDWARDS LIFESCIENCES CORPORATION ONE EDWARDS WAY IRVINE, CA 92614			EXAMINER BARRETT, THOMAS C	
			ART UNIT 3738	PAPER NUMBER 19

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/595,043

Applicant(s)

DEHDASHTIAN ET AL.

Examiner

Thomas C. Barrett

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 35-69 and 71 is/are pending in the application.
- 4a) Of the above claim(s) 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-69 and 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### REQUEST FOR CONTINUED EXAMINATION

The request filed on October 23, 2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/595043 is acceptable and a RCE has been established. An action on the RCE follows.

#### *Response to Arguments*

Applicant's arguments with respect to claims 35-46, 48-69 and 71 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a combination prosthesis containing a portion that is self-expanding and a portion that is balloon-expandable) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Applicant claims an intraluminal device wherein **at least a part** of the length of one of the tubular graft body portions is self-expanding while the remaining length of the same graft body portion is balloon-expandable. By claiming **at least a part** of the length, the Applicant is essentially claiming **at least a part or all** of the length.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

And

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 35-41, 43-44, 50-52, 59-63, 66-68, and 70-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Frid (WO 98/31303). Frid discloses an intraluminal device comprising: two tubular bifurcated grafts having bodies of similar length that overlap entirely when in a patient (Fig. 5). The grafts can be both self-expanding and balloon expandable (p 17, lines 20-23). The grafts have reinforcing frames made of interconnected elements (p 12, lines 7-25).

Claims 35, 45-46, 59 and 64-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Cox et al. (5,824,040). Cox et al. discloses an intraluminal device comprising: two tubular grafts having bodies that overlap when in a patient, one body thicker than the other (Fig. 18B).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frid (WO 98/31303) as above in view of Kleshinki (5,755,778). Frid discloses an intraluminal device comprising two tubular grafts however Frid fails to disclose the grafts having an adhesive that can stimulate cellular ingrowth. Kleshinki teaches impregnating the grafts with fibrin, which acts as a bio-adhesive (col. 3, lines 18-28). It would have been obvious to one of ordinary skill in the art to combine the teaching of impregnating the grafts with fibrin, as taught by Kleshinki, to an intraluminal device comprising two tubular grafts as per Frid, in order to act as a bio-adhesive.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frid (WO 98/31303) as above in view of White et al. (WO 95/08966) as cited in the prior action. Frid discloses an intraluminal device comprising two tubular grafts however Frid fails to disclose the grafts having separate spaced apart wires. White et al. teaches tubular grafts with separate spaced apart wires (FIG.2), which assists in placing the grafts, as the wires are X-ray detectable (p 5, lines 32-34). It would have been obvious to one of ordinary skill in the art to combine the teaching of separate spaced apart wires, as taught by White et al., to an intraluminal device comprising two tubular grafts as per Frid, in order to assist in placing the grafts.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas C. Barrett whose telephone number is (703) 308-8295. The examiner can normally be reached Tuesday-Friday between 9:00 A.M. and 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703) 308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A handwritten signature in black ink, appearing to read 'Thomas Barrett', with a stylized flourish at the end.

Thomas Barrett